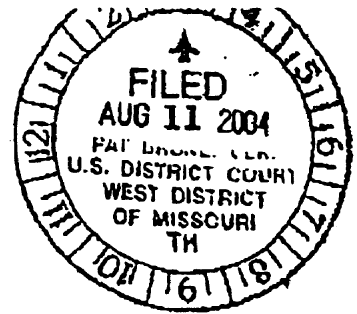


IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION



UNITED STATES OF AMERICA,

Plaintiff,

v.

APAC-MISSOURI, INC. and
DONALD G. "DONNIE" MANTLE,
[DOB: ██████████]

Defendants.

No. 04-04040-CI/02-CR-C-SOW

Conspiracy in Restraint of Trade
15 U.S.C. § 1

APAC-Missouri, Inc.
NMT: \$10,000,000 Fine, or twice the
gain derived from the crime or twice the
loss suffered by the victims of the crime.

\$400 Mandatory Special Assessment

Donald G. "Donnie" Mantle
NMT: 3 years imprisonment
NMT: \$350,000 Fine, or twice the gain
derived from the crime or twice the loss
suffered by the victims of the crime.

\$100 Mandatory Special Assessment

Class E Felony

INDICTMENT

THE GRAND JURY CHARGES THAT:

1. APAC-Missouri, Inc. and Donald G. "Donnie" Mantle are hereby indicted and
made defendants on the charge stated below.

1.

DEFENDANTS AND CO-CONSPIRATORS

2. Defendant APAC-Missouri, Inc. is a corporation organized and existing under the
laws of Delaware, with its principal place of business in Columbia, Missouri. During the period

covered by this Indictment, APAC-Missouri, Inc. was engaged in the business of highway construction primarily in the State of Missouri.

3. During the period covered by this Indictment, Defendant Donald G. "Donnie" Mantle was Vice President of APAC-Missouri, Inc. and President of its Central Missouri Division. As Vice President of APAC-Missouri, Inc. and President of its Central Missouri Division, Donald G. "Donnie" Mantle was responsible for the management, direction, control, and transaction of the Central Missouri Division's business and affairs, including, but not limited to, responsibility for the Division's highway construction bidding decisions.

4. Various co-conspirators not made defendants herein participated in the offense charged herein and performed acts and made statements in furtherance thereof. These included the corporate co-conspirator which was another highway construction company doing business in Missouri.

5. Whenever in this Indictment reference is made to any act, deed, or transaction of any corporation, the allegation means that the corporation engaged in the act, deed, or transaction by or through its officers, directors, employees, agents, or other representatives who were within the scope of their employment while they were actively engaged in the management, direction, control, or transaction of its business or affairs, with the intention, at least in part, to benefit the corporation.

II.

BACKGROUND

6. During the period covered by this Indictment, MoDOT invited highway construction contractors to submit sealed competitive bids on advertised projects, including the

asphalt highway construction project which is the subject of this Indictment. Each such bid was required to be submitted to the Missouri Highways and Transportation Commission and the Missouri Department of Transportation ("MoDOT") office in Jefferson City, Missouri, before the time indicated in the proposal form. The receipt, opening, and reading aloud of the bids constitute a process known as a bid letting. The bid letting for contract I.D. No. 000721-X01 ("X01"), which was a highway construction project in Ste. Genevieve County, occurred on July 21, 2000. Following a bid letting, MoDOT awards a contract for the performance of the specified highway construction to the lowest responsible bidder. Contract X01 was awarded by MoDOT to APAC-Missouri, Inc. based on its bid of \$7,133,319.08, and MoDOT received substantial federal funding for Contract X01.

III.

JURISDICTION AND VENUE

7. The combination and conspiracy charged in this Indictment was formed and carried out within the Western District of Missouri, within the five years preceding the return of this Indictment.

IV.

TRADE AND COMMERCE

8. During the period covered by this Indictment, substantial quantities of essential materials and equipment were transported across state lines in a continuous and uninterrupted flow of interstate commerce and in a manner substantially affecting interstate commerce, for use in the X01 highway construction project that is the subject of this Indictment. A portion of the X01 highway construction project was part of the Interstate Highway System, and the vast

majority of this project was federally funded. This resulted in the transfer of a substantial amount of federal funds from outside of the State of Missouri into the State of Missouri.

9. The business activities of the defendants and their co-conspirators that are the subject of this Indictment were within the flow of, and substantially affected, interstate commerce.

V.

DESCRIPTION OF THE OFFENSE

10. Beginning at least as early as July 20, 2000 and continuing until at least April 16, 2002, the exact dates being unknown to the Grand Jury, in the Western District of Missouri, the defendants and other co-conspirators knowingly entered into, and engaged in, a combination and conspiracy to suppress and eliminate competition by rigging bids for the X01 highway construction project. The combination and conspiracy, engaged in by the defendants and other co-conspirators, was an unreasonable restraint of interstate trade and commerce, in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

11. The charged combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the defendants and other co-conspirators, known and unknown to the Grand Jury, the substantial terms of which were:

- (a) that APAC-Missouri, Inc. would be designated as the winner of the prime contract for the X01 highway construction project; and
- (b) that the corporate co-conspirator would submit an intentionally high, complementary bid in exchange for a subcontract on the X01 highway construction project.

VI.

MEANS AND METHODS OF THE CONSPIRACY

12. For the purpose of forming and carrying out the charged combination and conspiracy, the defendants and other co-conspirators did those things that they combined and conspired to do, including, among other things:

- (a) discussed the submission of the prospective bids for the MoDOT letting of the X01 project during numerous telephone calls which took place on July 20 and 21, 2000, in Branson, Jefferson City, and elsewhere in Missouri;
- (b) agreed during those telephone calls not to compete by designating APAC-Missouri, Inc. to be the successful bidder on the X01 project;
- (c) agreed during those telephone calls that the other corporate co-conspirator would submit an intentionally high bid at the letting in exchange for a subcontract on X01 after APAC-Missouri, Inc. won the rigged X01 highway construction project;
- (d) submitted bids to MoDOT in Jefferson City, Missouri, on July 21, 2000, for the X01 project which contained false, fictitious, and fraudulent statements and entries;
- (e) APAC-Missouri, Inc. accepted payment of \$7,379,200.47 from MoDOT for the X01 highway construction project, although the X01 contract was based on rigged bids;

- (f) APAC-Missouri, Inc. subcontracted work on the X01 highway construction project to the corporate co-conspirator and paid the corporate co-conspirator for that work, although the X01 contract was based on rigged bids; and
- (g) the corporate co-conspirator accepted payment of at least \$2,947,139.29 from APAC-Missouri, Inc. for subcontract work on the X01 highway construction project, although the X01 contract was based on rigged bids.

All in violation of Title 15, United States Code, Section 1.

NOTICE OF SPECIAL FINDINGS

SENTENCING ALLEGATIONS WITH RESPECT TO DEFENDANT APAC-MISSOURI, INC.

13. With respect to the Indictment:

- (a) APAC-Missouri, Inc. submitted a rigged bid for contract X01 in the amount of \$7,133,319.08 and received payment of \$7,379,200.47, based on that bid and resulting overcharges; and
- (b) defendant APAC-Missouri, Inc. and its Central Missouri Division each had 200 or more employees and Donald G. "Donnie" Mantle, Vice President at APAC-Missouri, Inc. and President of its Central Missouri Division, an individual within high level personnel of APAC-Missouri, Inc. and its Central Missouri Division, participated in the offense.

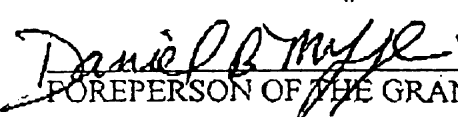
SENTENCING ALLEGATIONS WITH RESPECT
TO DEFENDANT DONALD G. "DONNIE" MANTLE

14. With respect to the Indictment:

- (a) defendant Donald G. "Donnie" Mantle participated in an agreement to submit non-competitive bids;
- (b) defendant Donald G. "Donnie" Mantle's employer APAC-Missouri, Inc. submitted a rigged bid for contract X01 in the amount of \$7,133,319.08 and received payment of \$7,379,200.47, based on that bid and resulting overcharges; and
- (c) defendant Donald G. "Donnie" Mantle was an organizer of the criminal activity.

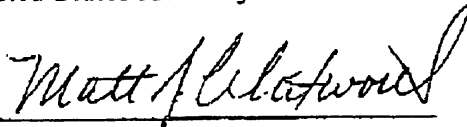
A TRUE BILL:

Dated 8/11/04


FOREPERSON OF THE GRAND JURY

TODD P. GRAVES
United States Attorney

R. HEWITT PATE
Assistant Attorney General

By: 
Assistant United States Attorney
MATT J. WHITWORTH #33322

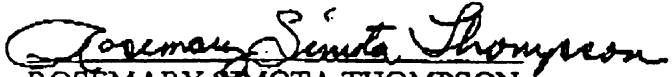
JAMES M. GRIFFIN
Deputy Assistant Attorney General

SCOTT D. HAMMOND
Director of Criminal Enforcement

MARVIN N. PRICE, JR., CHIEF
Midwest Field Office

By: 

BARRY J. KAPLAN


ROSEMARY SIMOTA THOMPSON

Attorneys
Antitrust Division
U.S. Department of Justice
209 S. LaSalle St., Suite 600
Chicago, Illinois 60604
Telephone: 312/353-7530